

Office of the Secretary of Labor

§ 18.10

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APPENDIX TO SUBPART B OF PART 18—REPORTER'S NOTES

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Subpart A—General

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GENERAL PROVISIONS

§ 18.10 Scope and purpose.

(a) *In general.* These rules govern the procedure in proceedings before the United States Department of Labor, Office of Administrative Law Judges. They should be construed and administered to secure the just, speedy, and inexpensive determination of every proceeding. To the extent that these rules may be inconsistent with a governing statute, regulation, or executive order, the latter controls. If a specific Department of Labor regulation governs a proceeding, the provisions of that regulation apply, and these rules apply to situations not addressed in the governing regulation. The Federal Rules of

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Civil Procedure (FRCP) apply in any situation not provided for or controlled by these rules, or a governing statute, regulation, or executive order.

(b) *Type of proceeding.* Unless the governing statute, regulation, or executive order prescribes a different procedure, proceedings follow the Administrative Procedure Act, 5 U.S.C. 551 through 559.

(c) *Waiver, modification, and suspension.* Upon notice to all parties, the presiding judge may waive, modify, or suspend any rule under this subpart when doing so will not prejudice a party and will serve the ends of justice.

§ 18.11 Definitions.

For purposes of these rules, these definitions supplement the definitions in the Administrative Procedure Act, 5 U.S.C. 551.

Calendar call means a meeting in which the judge calls cases awaiting hearings, determines case status, and assigns a hearing date and time.

Chief Judge means the Chief Administrative Law Judge of the United States Department of Labor Office of Administrative Law Judges and judges to whom the Chief Judge delegates authority.

Docket clerk means the Chief Docket Clerk at the Office of Administrative Law Judges in Washington, DC. But once a case is assigned to a judge in a district office, *docket clerk* means the docket staff in that office.

Hearing means that part of a proceeding consisting of a session to decide issues of fact or law that is recorded and transcribed and provides the opportunity to present evidence or argument.

Judge means an administrative law judge appointed under the provisions of 5 U.S.C. 3105.

Order means the judge's disposition of one or more procedural or substantive issues, or of the entire matter.

Proceeding means an action before the Office of Administrative Law Judges that creates a record leading to an adjudication or order.

Representative means any person permitted to represent another in a proceeding before the Office of Administrative Law Judges.

29 CFR Subtitle A (7-1-16 Edition)

§ 18.12 Proceedings before administrative law judge.

(a) *Designation.* The Chief Judge designates the presiding judge for all proceedings.

(b) *Authority.* In all proceedings under this part, the judge has all powers necessary to conduct fair and impartial proceedings, including those described in the Administrative Procedure Act, 5 U.S.C. 556. Among them is the power to:

(1) Regulate the course of proceedings in accordance with applicable statute, regulation or executive order;

(2) Administer oaths and affirmations and examine witnesses;

(3) Compel the production of documents and appearance of witnesses within a party's control;

(4) Issue subpoenas authorized by law;

(5) Rule on offers of proof and receive relevant evidence;

(6) Dispose of procedural requests and similar matters;

(7) Terminate proceedings through dismissal or remand when not inconsistent with statute, regulation, or executive order;

(8) Issue decisions and orders;

(9) Exercise powers vested in the Secretary of Labor that relate to proceedings before the Office of Administrative Law Judges; and

(10) Where applicable take any appropriate action authorized by the FRCP.

§ 18.13 Settlement judge procedure.

(a) *How initiated.* The Office of Administrative Law Judges provides settlement judges to aid the parties in resolving the matter that is the subject of the controversy. Upon a joint request by the parties or upon referral by the judge when no party objects, the Chief Judge may appoint a settlement judge. A settlement judge will not be appointed when settlement proceedings would be inconsistent with a statute, regulation, or executive order.

(b) *Appointment.* The Chief Judge has discretion to appoint a settlement judge, who must be an active or retired judge. The settlement judge will not be appointed to hear and decide the case or approve the settlement without the parties' consent and the approval of the Chief Judge.